

fishing activities. The prohibitions, restrictions, and duration of the closure will be specified in the notification.

(e) *Reopening of the fishery.* (1) The Regional Director may reopen the summer flounder fishery in the EEZ, or any part thereof, after consultation with the MAFMC, the Director of the State of North Carolina Division of Marine Fisheries, and the marine fisheries agency of any other affected state, by publishing notification in the FEDERAL REGISTER. The Regional Director may reopen the summer flounder fishery in the EEZ, or any part thereof, if additional sea turtle conservation measures are implemented and if projections of NMFS' sea turtle monitoring program indicate that such measures will ensure that continued operation of the summer flounder fishery is not likely to jeopardize the continued existence of any species listed under the ESA.

(2) The Regional Director may reopen the summer flounder fishery in the EEZ, or any part thereof, if the sea turtle monitoring program indicates changed conditions and if projections of the sea turtle monitoring program indicate that NMFS can ensure that continued operation of the summer flounder fishery is not likely to jeopardize the continued existence of any species listed under the ESA.

(f) *Additional sea turtle conservation measures.* (1) The Regional Director may impose additional sea turtle conservation measures, including tow-time requirements, in the EEZ, after consultation with the MAFMC, the Director of the State of North Carolina Division of Marine Fisheries, and the marine fisheries agency of any other affected state, by publishing notification in the FEDERAL REGISTER. The Regional Director shall take such action if he/she determines further measures are necessary to avoid jeopardizing the continued existence of any species listed under the ESA or if such action would allow reopening of the summer flounder fishery in the EEZ. The determination of the impact on sea turtles must be based on turtle mortalities and projections of turtle mortality by the NMFS monitoring and assessment program.

(2) Consistent with the procedures specified in § 648.10, the Regional Director may require that all or a certain portion of the vessels engaged in fishing for summer flounder carry observers, consistent with the requirements of § 648.10, to gather data on incidental capture of sea turtles and to monitor compliance with required conservation measures. This requirement may apply to certain types of vessels, certain areas, or during certain times of the year.

(g) *Experimental projects.* Notwithstanding paragraphs (a) through (f) of this section, the Regional Director may authorize summer flounder fishing, as a part of experimental projects to measure turtle capture rates, to monitor turtle abundance, to test alternative gear or equipment, or for other research purposes. Research must be approved by the Regional Director, and it must not be likely to jeopardize the continued existence of any species listed under the ESA. The Regional Director will impose such conditions as he/she determines necessary to ensure adequate turtle protection during experimental projects. Individual authorizations may be issued in writing. Authorizations applying to multiple vessels will be published in the FEDERAL REGISTER.

Subpart H—Management Measures for the Scup Fishery

SOURCE: 61 FR 43426, Aug. 23, 1996, unless otherwise noted.

§ 648.120 Catch quotas and other restrictions.

(a) *Annual review.* The Scup Monitoring Committee shall review the following data, subject to availability, on or before August 15 of each year. This review will be conducted to determine the allowable levels of fishing and other restrictions necessary to achieve an exploitation rate of 47 percent in 1997, 1998, and 1999, 33 percent in 2000 and 2001, and 19 percent in 2002 and thereafter: Commercial and recreational catch data; current estimates of fishing mortality; stock status; recent estimates of recruitment; virtual population analysis results; levels of

noncompliance by fishermen or individual states; impact of size/mesh regulations; impact of gear on the mortality of scup; and any other relevant information.

(b) *Recommended measures.* Based on this review, the Scup Monitoring Committee shall recommend the following measures to the Demersal Species Committee of the MAFMC and the Commission to assure that the exploitation rate specified in paragraph (a) of this section will not be exceeded:

(1) The coastwide commercial quota will be set from a range of 0 to the maximum allowed to achieve the specified exploitation rate.

(2) Commercial minimum fish size.

(3) Minimum mesh size.

(4) Recreational possession limit set from a range of 0 to 50 scup to achieve the specified exploitation rate.

(5) Recreational minimum fish size set from a range of 7 inches (17.8 cm) TL to 10 inches (25.4 cm) TL.

(6) Recreational season.

(7) Restrictions on gear.

(8) Season and area closures in the commercial fishery.

(c) *Annual fishing measures.* The Demersal Species Committee shall review the recommendations of the Scup Monitoring Committee. Based on these recommendations and any public comment, the Demersal Species Committee shall recommend to the MAFMC measures necessary to assure that the specified exploitation rate will not be exceeded. The MAFMC shall review these recommendations, and based on these recommendations and any public comment, recommend to the Regional Director measures necessary to assure that the specified exploitation rate will not be exceeded. The MAFMC's recommendation must include supporting documentation, as appropriate, concerning the environmental and economic impacts of the recommendations. The Regional Director shall review these recommendations and any recommendations of the Commission. After such review, the Regional Director will publish a proposed rule in the FEDERAL REGISTER by October 15 to implement a coastwide commercial quota and recreational harvest limit and additional management measures for the commercial fishery, and will publish a

proposed rule in the FEDERAL REGISTER by February 15 to implement additional management measures for the recreational fishery, if he or she determines that such measures are necessary to assure that the specified exploitation rate will not be exceeded. After considering public comment, the Regional Director will publish a final rule in the FEDERAL REGISTER to implement the annual measures.

(d) *Additional quota measures.* The commercial quota will be implemented as a coastwide quota, applicable to that area of the EEZ from 35°15.3' N. lat. to the United States/Canada border. The MAFMC and Commission may revise the coastwide quota system to distribute and manage the annual commercial quota allocation in accordance with the procedures set forth in this section. Vessel trip limits, as well as coastwide, regional and state-by-state quotas may be considered in combination with different fractions of the fishing year. Any modification to the coastwide quota system shall be published as a proposed rule in the FEDERAL REGISTER with a 45-day public comment period. After considering public comment on the proposed rule, a final rule shall be published in the FEDERAL REGISTER to implement the appropriate modification.

§ 648.121 Closure.

The Regional Director will monitor the harvest of commercial quota based on dealer reports, state data, and other available information and shall determine the date when the commercial quota will be harvested. The Regional Director shall close the EEZ to fishing for scup by commercial vessels for the remainder of the calendar year by publishing notification in the FEDERAL REGISTER advising that, effective upon a specific date, the commercial quota has been harvested, and notifying vessel and dealer permit holders that no commercial quota is available for landing scup.

§ 648.122 Season and area restrictions.

If the MAFMC determines through its annual review process that seasonal